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May 16, 2000

Ms. Magalie Roman Salas Secretary Federal Communications Commission 445 12th Street SW Washington, DC 20554

EX PARTE LETTER RE: CASES WT 99-217; CC 96-98

Dear Secretary Salas:

Enclosed are two (2) copies of an ex parte presentation in the above-referenced proceeding.

Very truly yours,

S.J. Johnson

Mayor

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Chairman William Kennard Federal Communications Commission 445 12th Street S.W. Washington D.C. 20554

EX PARTE PRESENTATION RE CASE DA 00-764

Dear Chairman Kennard:

Please do not preempt local zoning as requested by the Denver area broadcasters in the Lake Cedar case.

The broadcasters have asked you to overturn a local decision denying rezoning for a new 854 foot broadcast tower. The broadcasters claim that such preemption is necessary for them to meet a November 1999 deadline, to provide HDTV service. Their claims are not well founded.

The broadcasters delayed for over a year and a half in seeking rezoning of the land in question. You should not be stepping in to help the broadcasters, when their missing the deadline is their own fault.

As you are well aware, zoning and planning are best handled at the local level. The FCC is ill equipped to make local zoning, planning and land use decisions. Attempts to do so would be unconstitutional and unworkable. The case could set a dangerous precedent putting the FCC on the path to become A National Board of Zoning Appeals, on many kinds of towers and other matters subject to FCC jurisdiction. Doing so is contrary to 80 years of practice and precedent at the FCC, where local zoning has worked well and the FCC has

consistently deferred to municipalities on zoning of broadcast towers. If it isn't broke, don't fix it.

Finally, there is no need for the FCC to act because the broadcasters have already appealed to the Colorado courts where there is a prompt, effective remedy.

For these reasons, please do not grant the broadcasters request in the Lake Cedar case. Thank you for considering our views.

Very truly yours,

S.J. Johnson (

Mayor

CC:

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Commissioner Michael Powell Federal Communications Commission 445 12th Street SW Washington, DC 20554

Commissioner Gloria Tristani Federal Communications Commission 445 12th Street SW Washington, DC 20554

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